IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
APPEAL BRIEF FOR THE APPELLANTS
Ex parte Costa *et al.*

Applicant: Hilario S. Costa, *et al.*	)	
	)	
Serial No. 09/961,104	)	Art Unit: 2636
	)	
Filed: September 24, 2001	)	Examiner: Eric Blount

For: ALARM PULL-STATION WITH CAMERA

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Sir:

Submitted herewith are three copies (3) of an Appeal Brief and a petition for a two-month extension of time. The Commissioner is hereby authorized to charge the fee of $950.00 ($500 for the appeal brief and $450 for the two-month time extension) and any additional fees which may be required for this submission, or credit any overpayment to Deposit Account No. 50-2036 with reference to Attorney Docket No. 87319.3060.

Respectfully submitted,
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BRIEF ON APPEAL

I. INTRODUCTION

This is an appeal from the final Office Action dated November 17, 2004. A Notice of Appeal was filed on April 14, 2005. Submitted herewith is a petition for a two-month extension of time.

II. REAL PARTY IN INTEREST

The Real Party in Interest in the present application is Edwards Systems Technology, Inc. by way of an assignment.

III. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences known to the Appellant, Appellant's representatives or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

IV. STATUS OF THE CLAIMS

Claims 1-23 are pending in the application. Claims 1-6, 14, and 16-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 3,877,005 to Apgar ("Apgar") in view of United States Patent No. 6,002,430 to McCall *et al.* ("McCall"). Claims 7-13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Apgar in view of McCall, as applied to the claims above, and further in view of Untied States Patent Application No. 20040088345 to Zellner *et al.* ("Zellner"). Claims 1, 17, and 20 are independent claims upon which claims 2-16, 18, 19, and 21-23 ultimately depend. The claims on appeal, claims 1-23, are set forth in the attached Appendix.

V. STATUS OF THE AMENDMENTS

Claims 1-23 were finally rejected in the final Office Action mailed November 17, 2004. A Notice of Appeal was filed on April 14, 2005.

VI. SUMMARY OF THE INVENTION

A. Related Art Problems Overcome by the Invention

The prior art includes emergency alarm systems that employ manually operated pull-stations. However, the prior art does not disclose emergency alarm systems that employ cameras to monitor the systems' manually operated pull-stations, where the camera is positioned such that the camera's blind spots are substantially constrained. Thus, known cameras are inhibited by blind spots. These blind spots are a result of the camera's mounting location within the pull-station, and these blinds spots enable individuals to activate the alarm system and circumvent the camera's range of view.

In order to alleviate this problem, the present invention positions the camera within the alarm pull-station such that blind spots are substantially limited or constrained. As detailed in the as-filed application, the camera is mounted in the pull-station so that the lens is a distance from the lever such that when the lever is actuated, the field of view of the lens is not obstructed. The application additionally discloses positioning the camera such that the view range of the camera is 180^0, which prevents an individual from approaching the pull-station and hiding closely adjacent to the planar surface. *See page 10, lines 6-16 of application.*

B. Object of the invention

Embodiments of the present invention generally provide for an improved alarm system that employs cameras to monitor manually operated alarm pull-stations, wherein the cameras have an unobstructed range of view.

C. The claimed invention

1. Independent Claim 1

The apparatus of independent claim 1 is described in the specification, *intra alia*, at page 8, line 12 through page 10, line 16 and FIGS 1 and 2.

Independent claim 1 includes a manually operated pull-station 12 for activating an alarm system 10, the pull-station 12 comprising a housing 18, a manually actuated lever 14 movable between armed and activated positions, and a camera 16 configured to be mounted a distance away from said lever 14 such that blind areas are substantially constrained.

2. Dependent claims 2-16

Dependent claim 2 is dependent on claim 1 and further defines the pull-station 12, wherein said camera 16 is a video camera.

Dependent claim 3 is dependent on claim 1 and further defines the pull-station 12, further comprising a local memory device 26 for storage of image data from said camera 16.

Dependent claim 4 is dependent on claim 3 and further defines the pull-station 12, wherein said memory device 26 includes removable, memory media 56.

Dependent claim 5 is dependent on claim 4 and further defines the pull-station 12, wherein said memory media 56 is a compact disc.

Dependent claim 6 is dependent on claim 4 and further defines the pull-station 12, wherein said memory media 56 is a floppy disc.

Dependent claim 7 is dependent on claim 3 and further defines the pull-station 12, further comprising a data output port 36 for communicating with a peripheral communication device, wherein the peripheral communication device and said pull-station 12 communicate with each other to transfer at least one of image data and commands between pull-station 12 and the peripheral device.

Dependent claim 8 is dependent on claim 7 and further defines the pull-station 12, wherein the peripheral communication device is a laptop computer 50.

Dependent claim 9 is dependent on claim 7 and further defines the pull-station 12, wherein the peripheral communication device is a Personal Digital Assistant 52.

Dependent claim 10 is dependent on claim 7 and further defines the pull-station 12, wherein the peripheral communication device is a desktop computer 58.

Dependent claim 11 is dependent on claim 7 and further defines the pull-station 12, wherein said pull-station 12 communicates with the peripheral device via an infrared signal.

Dependent claim 12 is dependent on claim 7 and further defines the pull-station 12, wherein said pull-station 12 communicates with the peripheral device via direct wire connection.

Dependent claim 13 is dependent on claim 7 and further defines the pull-station 12, wherein said pull-station 12 communicates with the peripheral device using wireless RF frequency.

Dependent claim 14 is dependent on claim 2 and further defines the pull-station 12, wherein said camera 16 has a lens 22 that produces a field of view at least three feet wide at a distance three feet from said lens 22.

Dependent claim 15 is dependent on claim 14 and further defines the pull-station 12, wherein the field of view of said lens 22 is adjustable.

Dependent claim 16 is dependent on claim 14 and further defines the pull-station 12, wherein said camera 16 has a lens 22 located at a distance above said lever 14 such that when said pull-station 12 is actuated, said lever 14 does not obstruct the field of view of said camera 16.

3. Independent Claim 17

Independent claim 17 includes a manually operated pull-station 12 for activating an alarm system 10, the pull-station 12 comprising a housing 18, means for actuating 14 the pull-station 12 between an armed state and an activated state, and means 16 located in said housing for capturing an image occurring outside of said housing 18, said means for capturing 16 is

positioned a distance away from said means for actuating 14 such that a field a view of said means for capturing 16 is not obstructed and substantially limits blind areas.

4. Dependent Claims 18 and 19

Dependent claim 18 is dependent on claim 17 and further defines the pull-station 12, wherein said means for capturing 16 an image captures an image when said actuating means 12 is actuated to the activated state.

Dependent claim 19 is dependent on claim 17 and further defines the pull-station 12, further comprising means for storing 56 the captured image data.

5. Independent Claim 20

Independent claim 20 is a method of handing data in a pull-station 12 for activating an alarm system 10 comprising the steps of capturing image data in the vicinity of the pull-station 12 with a camera 16, wherein said camera 16 is configured to be positioned within a housing 18 such that a field a view of said camera 16 is not obstructed and substantially limits blind areas, and recording the captured image.

6. Dependent Claims 21-23

Dependent claim 21 is dependent on claim 20 and further defines the method, further comprising the step of retrieving the stored image data.

Dependent claim 22 is dependent on claim 1 and further defines the pull-station 12, wherein the camera 16 is mounted in the housing 18 so that it is a distance from the lever 14.

Dependent claim 23 is dependent on claim 1 and further defines the pull-station 12, wherein a view of the camera 16 produces 180° field of view.

VII. ISSUES

A. Whether claims 1-6, 14, and 16-23 are unpatentable over Apgar in view of McCall under 35 U.S.C. §103(a).

B. Whether claims 7-13 are unpatentable over Apgar in view of McCall, and further in view of Zellner under 35 U.S.C. §103(a).

VIII. GROUPING OF CLAIMS

Each claim of this patent application is separately patentable, and upon issuance of a patent, will be entitled to a separate presumption of validity under 35 U.S.C. §282.

IX. APPELLANTS ARGUMENTS

A. CLAIM REJECTIONS – 35 U.S.C. § 103

The Examiner rejected claims 1-6, 14, and 16-23 under 35 U.S.C. § 103(a) as being unpatentable over Apgar in view of McCall.

The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. *MPEP §2142.* To establish a prima facie case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, to modify the references or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior art must teach all the claim limitations. *MPEP §2142.*

Initially, Applicants respectfully note that as recently as January 2002 the Federal Circuit rejected the argument that an assertion of obviousness can be merely based on a generalized notion that a particular process is obvious, but affirmatively stated that a conclusion of obviousness must be supported by documented evidence, and that such documented evidence

must include "some motivation, suggestion, or teaching of the desirability of making the **specific combination** that was made by the applicant" {bolded emphasis added}. *In re Lee*, Case No. 00-1158 (Fed. Cir. 2002); *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). Conclusory statements, such as those provided by the Office Action in the present circumstances, do not fulfill the obligation of the Patent Office to provide the required specific motivation, and deficiencies of the cited references cannot be remedied by general conclusions. *In re Lee*, at pp. 8-9; *In re Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697.

Additionally, Applicants respectfully point to the final prong of the nonobviousness test, which states the prior art references must teach or suggest all aspects of the claim. See MPEP §2143.03. The present invention, at the very least, is patentable over the cited prior art references because the camera is positioned within the housing such that the blinds spots are substantially limited or constrained. More specifically, the camera is mounted in the housing so that the lens is a distance from the lever such that when the pull-station is actuated, the field of view of the lens is not obstructed. A distinct advantage of mounting the camera so that the lens is a distance from the lever is that it prevents an individual from activating the lever and, while doing so, circumventing the camera's field of view.

Claim 1 of the present invention captures this distinct feature. The combination recited in claim 1 and its dependent claims 2-16 includes "a manually operated pull-station . . . comprising . . . a manually actuated lever . . . and a camera configured to be mounted a distance away from said lever such that blind areas are substantially constrained."

Claim 17 of the present invention captures this feature as well. The combination recited in claim 17 and its dependent claims 18-19 includes "a manually operated pull-station . . . comprising . . . means for actuating the pull-station . . . means . . . for capturing an image . . .

positioned a distance away from said means for actuating such that a field a view of said means for capturing 16 is not obstructed and substantially limits blind areas."

Claim 20 of the present invention also captures this feature. The combination recited in claim 20 and its dependent claims 21-23 includes "a pull-station . . . comprising . . . a camera . . . configured to be positioned within a housing such that a field of view of said camera is not obstructed and substantially limits blind areas."

As noted above, it is important to point-out that each of the pending independent claims, in some form, claims that a camera that is mounted a distance away from the level to eliminate blind spots.

The cited references of Apgar and McCall, at a minimum, do not contain the above claimed feature. Apgar fails because, for example, as noted by the Examiner on page 5 of the Office action mailed November 17, 2004, McCall does not teach "a fire alarm pull station, which includes a camera positioned to constrain blind spots." The Examiner, it appears, is specifically citing McCall for this proposition.

However, McCall merely discloses a camera having an expansive field of view. This reference, at no point, teaches or suggests a camera in combination with an alarm system. Moreover, McCall fails to teach or suggest a camera configured to be mounted a distance away from said lever such that blind areas are substantially constrained, as claimed in the present application.

It appears as if the Examiner is using Applicants' disclosure to piece together various pieces of prior art to arrive at the claimed invention. "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine, 837 F.2d 1071, 5 USP2d 1596 (1988).* However, the references, even if read at their

broadest extent do not teach or suggest a camera in combination with an alarm system, where the camera is configured to be mounted a distance away from a lever such that blind areas are substantially constrained.

Thus, neither Apgar nor McCall, either separately or in combination, support a finding of obviousness since the references do not teach or suggest all the elements of the present claimed invention. For at least this reason, Applicants respectfully request the rejection to these claims be withdrawn.

B. CLAIM REJECTIONS – 35 U.S.C. § 103

The Examiner rejected claims 7-13 under 35 U.S.C. §103(a) as being unpatentable over Apgar in view of McCall, as applied to the claims above, and further in view of Zellner. Claims 7-13 ultimately depend from independent claim 1, either indirectly or indirectly. In light of the previous discussion regarding Apgar and McCall as they relate to claim 1, the references, either individually or in combination, do not teach or suggest all the limitations to support an obviousness rejection. For at least this reason, Applicants respectfully request the rejection to these claims be withdrawn.

X. CONCLUSION

For all of the above-noted reasons, it is strongly contended that certain, clear and important distinctions exist between the present invention as recited in claims 1-23 and the cited references as provided in the final Office Action. This final rejection being in error, therefore, it is respectfully requested that this Honorable Board of Patent Appeals and Interferences reverse the Examiner's decision in this case, and indicate the allowability of claims 1-23.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Matter No. 87319.3060.

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APPENDIX 1

1. A manually operated pull-station for activating an alarm system, the pull-station comprising:

housing;

a manually actuated lever movable between armed and activated positions; and

a camera configured to be mounted a distance away from said lever such that blind areas are substantially constrained.

2. The pull-station according to claim 1, wherein said camera is a video camera.

3. The pull-station according to claim 1, further comprising a local memory device for storage of image data from said camera.

4. The pull-station according to claim 3, wherein said memory device includes removable, memory media.

5. The pull-station according to claim 4, wherein said memory media is a compact disc.

6. The pull-station according to claim 4, wherein said memory media is a floppy disc.

7. The pull-station according to claim 3, further comprising a data output port for communicating with a peripheral communication device, wherein the peripheral communication device and said pull-station communicate with each other to transfer at least one of image data and commands between said pull-station and the peripheral device.

8. The pull-station according to claim 7, wherein the peripheral communication device is a laptop computer.

9. The pull-station according to claim 7, wherein the peripheral communication device is a Personal Digital Assistant.

10. The pull-station according to claim 7, wherein the peripheral communication device is a desktop computer.

11. The pull-station according to claim 7, wherein said pull-station communicates with the peripheral device via an infrared signal.

12. The pull-station according to claim 7, wherein said pull-station communicates with the peripheral device via direct wire connection.

13. The pull-station according to claim 7, wherein said pull-station communicates with the peripheral device using wireless RF frequency.

14. The pull-station according to claim 2, wherein said camera has a lens that produces a field of view at least three feet wide at a distance three feet from said lens.

15. The pull-station according to claim 14, wherein the field of view of said lens is adjustable.

16. The pull-station according to claim 14, wherein said camera has a lens located at a distance above said lever such that when said pull-station is actuated, said lever does not obstruct the field of view of said camera.

17. A manually operated pull-station for activating an alarm system, the pull station comprising:

a housing;

means for actuating the pull station between an armed state and an activated state; and

means located in said housing for capturing an image occurring outside of said housing, said means for capturing is positioned a distance away from said means for actuality such that a field a view of said means for capturing is not obstructed and substantially limits blind areas.

18. The pull station according to claim 17, wherein said means for capturing an image captures an image when said actuating means is actuated to the activated state.

19. The pull station according to claim 17, further comprising means for storing the captured image data.

20. A method of handling data in a pull station for activating an alarm system comprising the steps of:

capturing image data in the vicinity of the pull station with a camera, wherein said camera is configured to be positioned within a housing such that a field a view of said camera is not obstructed and substantially limits blind areas; and

recording the captured image data.

21. The method according to claim 20, further comprising the step of:

retrieving the stored image data.

22. The pull-station according to claim 1, wherein the camera is mounted in the housing so that it is a distance from the lever.

23. The pull-station according to claim 1, wherein a view of the camera produces 180° field of view.